

# BOARD OF ADJUSTMENT REPORT



MEETING DATE: 10/6/2004

ITEM NO. 2

ACTION REQUESTED: Zoning Ordinance Variance

<b>SUBJECT</b>	12-BA-2004 - Tuscana La Regia Lot 16 Wall Variance Request
<b>REQUEST</b>	Request approval for a variance to allow a 6-foot high wall within the required front yard setback at Lot 16 of Toscana.
<b>OWNER</b>	Kathy Kallner
<b>APPLICANT CONTACT</b>	Mark Fellman Celebrity Custom Homes 480-607-0669
<b>LOCATION</b>	19058 N 95th Wy
<b>CODE ENFORCEMENT ACTIVITY</b>	None
<b>PUBLIC COMMENT</b>	One call was received as of the drafting of this report requesting additional information about the request.
<b>ZONE</b>	R1-35 ESL (Single Family Residential, Environmentally Sensitive Lands)
<b>ZONING/DEVELOPMENT CONTEXT</b>	This .79-acre parcel is located on lot 16 of La Reggia, a 24-lot subdivision that was platted in January 2001. To the northwest and south of the subject lot are recently constructed single family homes. To the west and south of this subdivision is Ironwood Village, an R1-10 zoned single family subdivision that was developed in 1990. To the east is the Reatta Wash and the D.C. Ranch master planned community, to the north is the Pima Acres subdivision.
<b>ORDINANCE REQUIREMENTS</b>	Article V, Section 5.204.G requires that walls, fences and hedges shall not exceed 3-feet in height on the front property line or within the required front yard.
<b>DISCUSSION</b>	The applicant is requesting a zoning variance on a home that is under construction, to allow a 6-foot tall wall to be constructed at the 10-foot setback line as measured from the front property line. Walls fences and hedges that exceed 3-feet in height are required by the Zoning Ordinance to meet the required front yard setback of the zoning district. In this case, the subdivisions required front yard setback is 30-feet through approved amended development standards. Therefore, the applicant is requesting a 20-foot setback variance on

the location of the 6-foot tall wall or a 3-foot height variance for the height of the wall.

## **FINDINGS**

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The applicant indicates the special circumstance with this lot is that the existing wash/drainage easement and floodwall take up 1/5 of the lot that, in turn, makes the back yard too small.

Staff agrees that a large portion of this lot is contained in NAOS and drainage easements making those areas not usable back yard space. However, several of the lots within this subdivision deal with this same issues of on lot drainage easements and natural area open space easements cutting into usable yard area.

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

The applicant states that without the new wall location, the visual impact from the street would be less attractive and have a negative impact because of the elevation from the street to yard.

Staff realizes that the size of drainage/NAOS easement coupled with the 4,800 square foot size of the home has created a smaller backyard area than the homeowner may wish to have. Any other options to increase usable yard area, such as building a smaller house on the lot, would have been considered as a way to increase yard size.

- 3. That special circumstances were not created by the owner or applicant:**

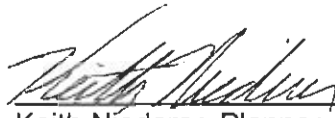
The applicant indicates that the flood wall was not created by the builder, nor the owner. The condition was pre-existing. The intention is to create a normal flow for the walls in the area.

Staff agrees that the location and size of the lots, flood walls and easements were not necessarily created by the applicant or owner, but rather the master developer when the engineering of the subdivision plat was ongoing.

- 4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:**

The applicant indicates that the granting of this variance would not impact persons in the area or be detrimental to the neighborhood.

Moving the 6-foot tall wall location 20 feet closer to 95<sup>th</sup> Way should not have any impacts on vehicular safety in the neighborhood. The wall would also still be located outside of the public utility easement. However, the residents in the neighborhood may object to having a residential wall of 6 feet in height 20 feet closer to the property line than would typically be permitted.

**STAFF CONTACT**

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Kurt Jones, Current Planning Director  
Phone: 480-312-2524  
E-mail: [Kjones@ScottsdaleAZ.gov](mailto:Kjones@ScottsdaleAZ.gov)

**ATTACHMENTS**

1. Project Description
2. Justification
3. Context Aerial
4. Aerial Close-up
5. Zoning Map
6. Photographs Submitted by Applicant
- 6A. Photo Taken by City Staff
7. Proposed Site Plan
8. Wall Location Graphic

8/31/04



# ZONING ORDINANCE VARIANCE

## Application Submittal Requirements

### Project Description / Variance Details

Case Numbers: 451 - PA - 2004 / 12 - BA - 2004Project Name: LA REGGIA

Location: \_\_\_\_\_

#### Property Details:

☒ Single-Family Residential    ☐ Multi-Family Residential    ☐ Commercial    ☐ Industrial
Use: RESIDENTIAL    Zoning: R1-35 ESLNumber of Buildings: 1    Height: 21'Setbacks:    N - 30'    S - 12    E - 30'    W - 25

#### Description of Request:

Section of the Zoning Ordinance to be varied: BASIC SIDE YARD

Project Narrative: WE PROPOSE TO BUILD A 6' CMU WALL FROM THE 30' SET BACK LINE THAT WAS APPROVED TO 10' SET BACK LINE FROM STREET. WE FEEL THAT BECAUSE OF THE PREEXISTING CONDITION, THE WASH AND THE FLOOD WALL WE HAVE A HARDSHIP. ALSO THE KEY LOT WE FEEL REALLY SHOULD NOT APPLY TO THIS PARTICULAR LOT, BECAUSE OF THIS CONDITION WE WOULD HAVE ONE OF THE SMALLEST LOTS IN THE SUBDIVISION. MOVING THE WALL WOULD NOT BE A DETRIMENT TO THE NEIGHBOR NOR TO THE SURROUNDING HOMES OR STREETS

Scottsdale Ordinance Requires: KEY LOT30' SET BACK FOR 6' WALL

Request: 10' SET BACK FOR 6' WALL OR 3' WALL FROM OUTSIDE GRADE W 54" IRON TO MATCH FLOOD WALL

Amount of Variance: MINOR

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088

8/31/04



# ZONING ORDINANCE VARIANCE

## Application Submittal Requirements

### Justification for Variance

The Board of Adjustment may not authorize a zoning ordinance variance unless ALL of the following criteria are met. Use the space provided to present your evidence that the requested variance complies; you may attach a separate sheet if you need more room.

1. Special circumstances/conditions exist which do not apply to other properties in the district:

THE SPECIAL CIRCUMSTANCES ARE THAT THERE IS AN EXISTING CONDITION, THE FLOOD WALL THAT TAKES UP 1/5 OF THE LOT WHICH MAKES THE BACK YARD TOO SMALL. DUE TO THAT THIS LOT IS DEFINED AS A KEY LOT

2. Special circumstances were not created by the owner or applicant:

THE FLOOD WALL AND THE KEY LOT DEFINITION WAS NOT CREATED BY THE BUILDER NOR THE OWNER. THE CONDITIONS WERE PREEXISTING. OUR INTENT IS TO CREATE A NORMAL FLOW FOR THE WALLS IN THE SURROUNDING AREA.

3. Authorizing the variance is necessary for the preservation and enjoyment of substantial property rights:

DUE TO THE FACT THAT WITH OUT THE NEW WALL LOCATION THE VISUAL IMPACT FROM THE STREET WOULD BE LESS ATTRACTIVE AND HAVE A NEGATIVE IMPACT BECAUSE OF THE ELEVATION FROM THE STREET TO YARD

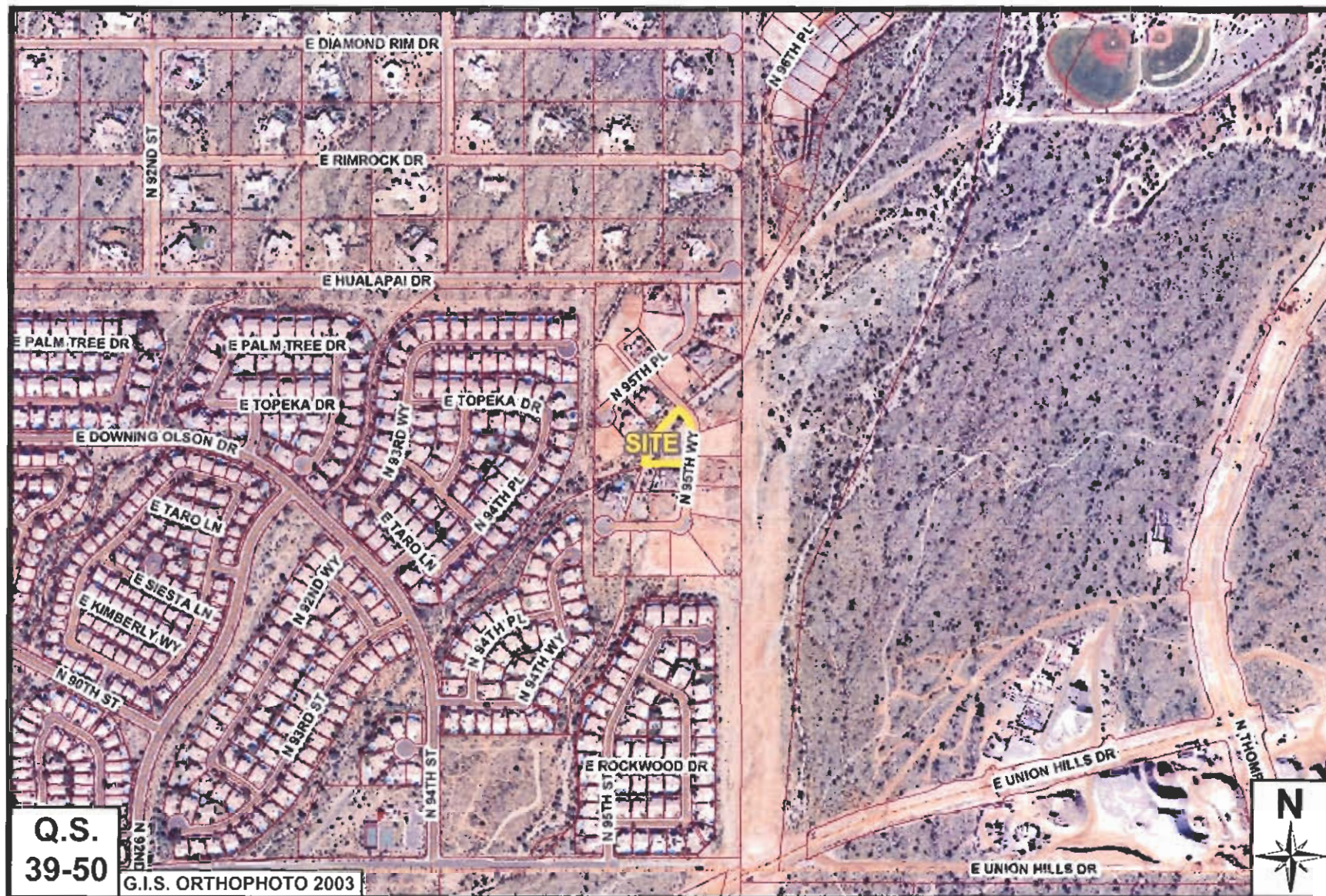
4. Authorizing the application will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general:

BY GRANTING THE VARIANCE ALL PERSONS AROUND THE AREA WOULD NOT BE IMPACTED NOR DETRIMENTAL TO THE NEIGHBORHOOD. THE SURROUNDING AREAS WOULD ONLY BENEFIT FROM THEM.

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Tuscana La Regia, Lot 16

12-BA-2004

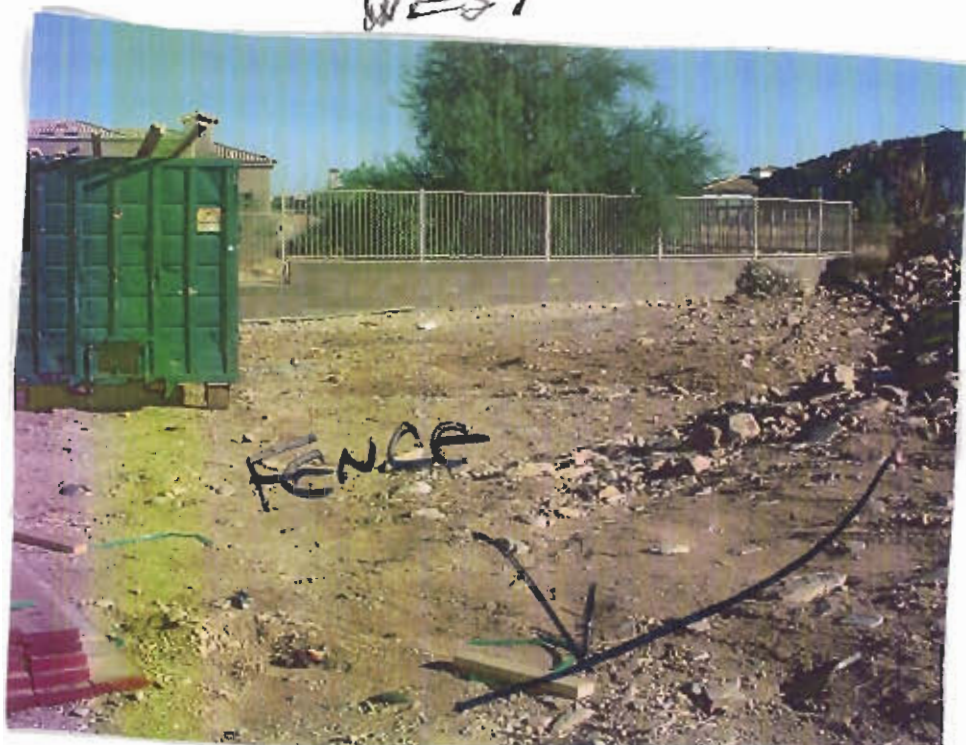








WEST



SOUTH WEST



SOUTH WEST



WEST



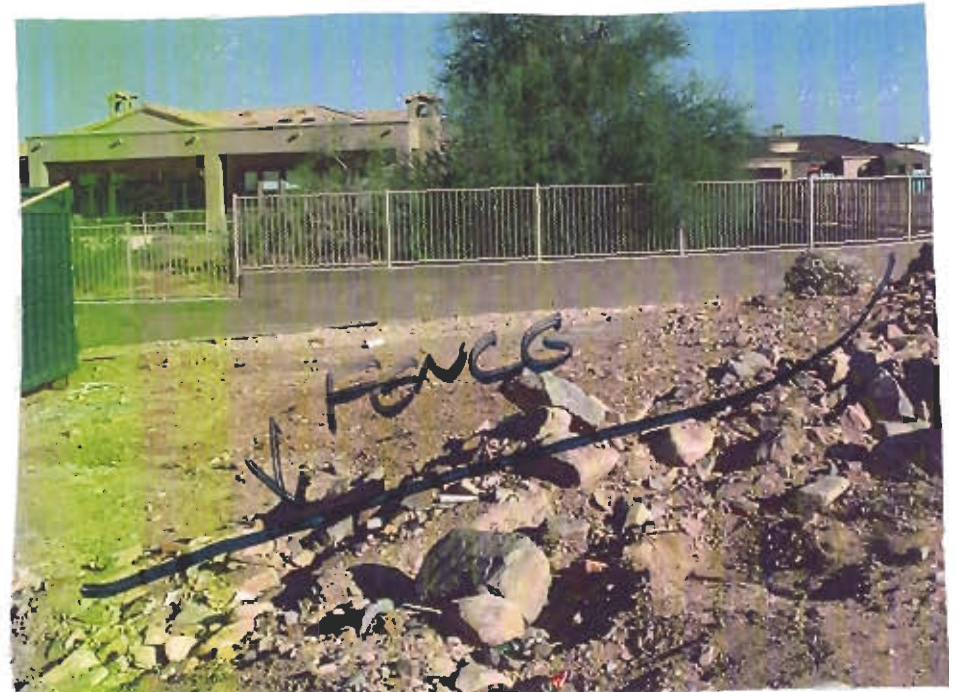
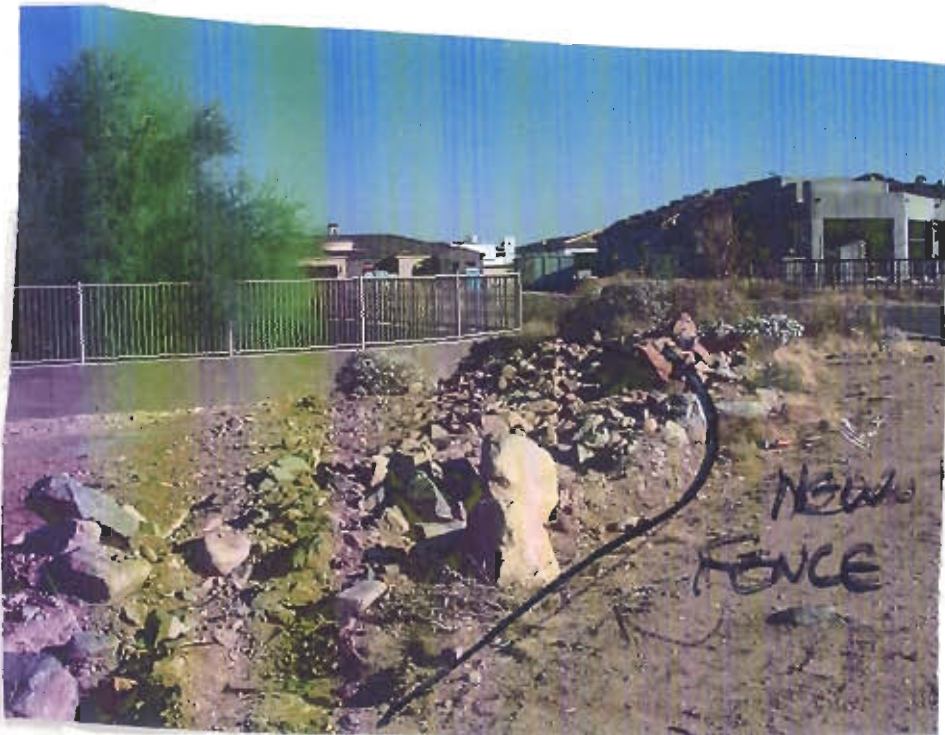
ATTACHMENT #6

PHOTOS SUBMITTED BY APPLICANT

12-BA-2004



SOUTHWEST





**PHOTOS TAKEN BY CITY STAFF**



**ATTACHMENT #6A**

Looking West from in front of subject property

*12-BR-2004*





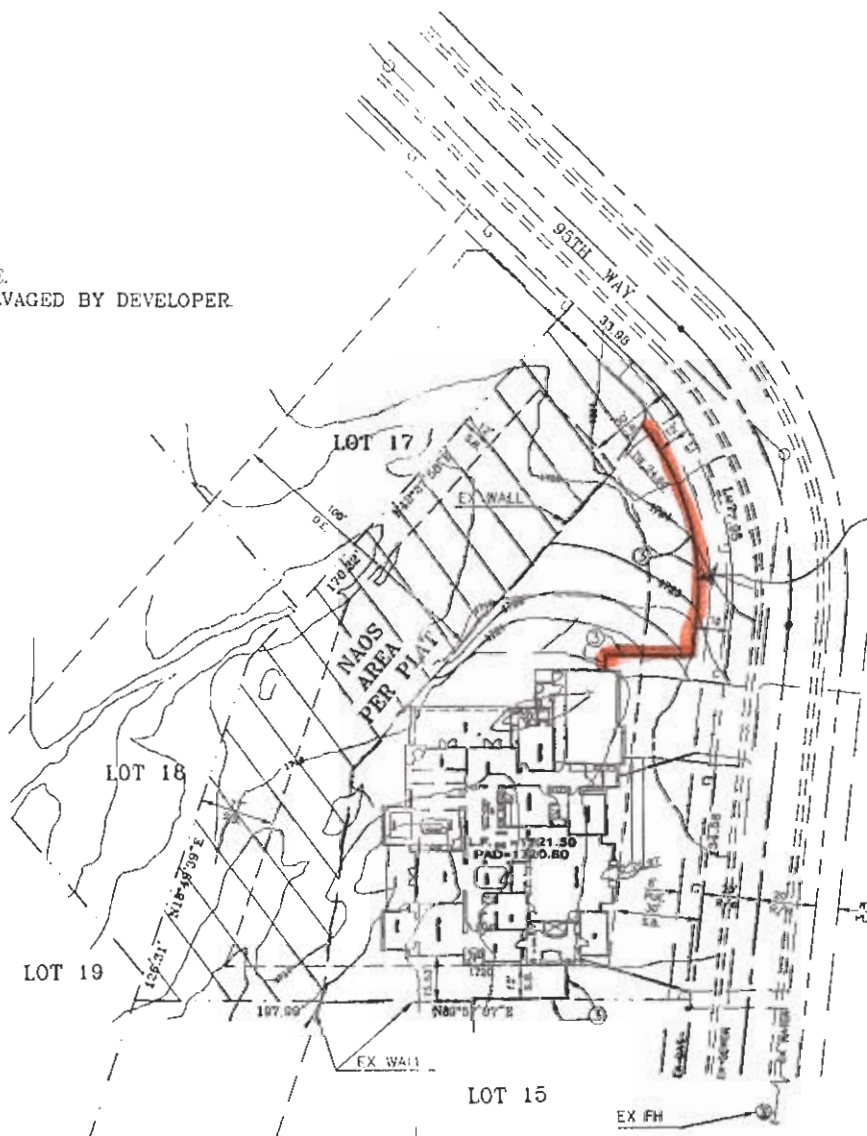
Looking West from in front of subject property



Looking NW from in front of subject property



NO VEGETATION ON SITE.  
PLANTS HAVE BEEN SALVAGED BY DEVELOPER.



CONSTRUCTION NOTES:

- ③ CONSTRUCT 6' CHAS WALL PER DETAIL SHEET 1.

12-BA-2004  
8/31/04

SOUTHWEST GEOMATICS Inc.

CELEBRITY HOMES  
19058 NORTH 95TH WAY  
SCOTTSDALE, ARIZONA 85258  
SITE PLAN



SHEET 1 OF 1

PROJECT NO.	12-BA-2004
DATE	8/31/04
DRAWN BY	SWG
CHECKED BY	SWG
APPROVED BY	SWG
SCALE	1" = 20'
PROJECT	CELEBRITY HOMES
LOCATION	19058 NORTH 95TH WAY, SCOTTSDALE, AZ 85258
DATE	8/31/04



## Wall Location



Allowed



Proposed

30ft

10ft

95TH WY

0 10 20 40 60 80 Feet

1 inch equals 30 feet



ATTACHMENT #8